

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 7

SYSCO GRAND RAPIDS, LLC

Respondent,

and

GENERAL TEAMSTERS UNION
LOCAL NO. 406, INTERNATIONAL
BROTHERHOOD OF TEAMSTERS

Charging Party.

Cases: 07-CA-146820
07-CA-148609
07-CA-149511
07-CA-152332
07-CA-155882
07-CA-166479
07-RC-147973

**RESPONDENT'S EXCEPTIONS TO THE
ADMINISTRATIVE LAW JUDGE'S DECISION**

COMES NOW, the Respondent, Sysco Grand Rapids, LLC, through undersigned counsel and pursuant to §102.46(a) of the Board's Rules and Regulations files its Exceptions to the Decision issued by Administrative Law Judge Michael A. Rosas on March 9, 2018.

On April 11, 2018, the Executive Secretary issued a "Corrected Order Transferring Proceeding To The National Labor Relations Board." Pursuant to §102.46(a), a party may file exceptions to an ALJ's Order within 28 days of the issuance of an order transferring the case to the Board.¹

The Respondent excepts as follows:

289. The Respondent previously filed Exceptions, Brief in Support of Exceptions and a Reply Brief in the same matter in 2017. Those filings are incorporated by reference herein as if recited expressly herein.

290. The "Erratum" issued by the Administrative Law Judge is without legal effect as it was issued more than ONE YEAR after the original Decision and

¹ The "Corrected Order" erroneously required Exceptions to be filed by March 30, 2017, more than a year before its entry.

Recommended Order during which the ALJ lost jurisdiction to modify the Decision and Recommended Order. When he issued it, the parties had fully briefed Exceptions from the Respondent to the Board; the General Counsel and Charging Party failed to file Exceptions; litigation under 29 USC 160(j) before a United States Court was filed by the General Counsel transferring the administrative record pursuant to §10 of the Act. By that time, the ALJ had no jurisdiction to issue the Erratum and it was inappropriately issued and accepted by the Board as evidenced by its initial Order of April 3, 2018 and subsequent Corrected Order of April 3, 2018.

291. The Respondent's Motion to Strike Erratum filed March 23, 2018 was denied in error not only because the ALJ lacked jurisdiction to issue it, but also because the ALJ made no finding that his most recent Decision and Recommended Order corrected a "material typographical error" and failed to find that Erratum modified findings which are "matters of substance such as findings on the merits." *Wilco Business Forms, Inc.*, 280 NLRB 1336 n. 2 (1986), see also, "Bench Book: An NLRB Trial Manual", §154-700 at p. 128 (January 2018). A finding of a party's identity is a substantial finding. As such, it was error to issue an erratum identifying a new party in an erratum more than one year after the initial decision, without jurisdiction, under extant Board precedent and guidance. The Motion to Strike the Erratum filed with the Board which more fully briefs the legal arguments identified in paragraphs 290 and 291 of these exceptions is incorporated by reference.

Respectfully submitted,

/s/ Mark A. Carter

Mark A. Carter, Esq. (WVSB #4316)

Dinsmore & Shohl

Post Office Box 11887

Charleston, WV 25339-1887

Telephone: (304) 357-0924

Email: mark.carter@dinsmore.com

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CERTIFICATE OF SERVICE

This is to certify that on this 8th day of May, 2018, I filed a copy of the **Respondent's Exceptions to the Administrative Law Judge's Decision** with the Office of the Executive Secretary, National Labor Relations Board using the Board's E-Filing System. I further certify that at the same time, I served a copy of the same on the Counsel for the General Counsel and the Charging Party's counsel of record as follows:

Colleen J. Carol, Esq.
Steven E. Carlson, Esq.
Counsel for the General Counsel
110 Michigan Street NW, Room 299
Grand Rapids, MI 49503-2313
E-mail: Colleen.Carol@nrlrb.gov
Steven.Carlson@nrlrb.gov

Michael L. Fayette, Esq.
Pinsky, Smith, Fayette & Kennedy, LLP
146 Monroe Center St. NW
Suite 805
Grand Rapids, MI 49503-2833
E-mail: mfayette@psfklaw.com

/s/ Mark A. Carter

Mark A. Carter, Esq. (WVSB #4316)

DINSMORE & SHOHL LLP

P.O. Box 11887

Charleston, WV 25339-1887

Telephone: (304) 357-0900

Facsimile: (304) 357-0919

Email: mark.carter@dinsmore.com

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